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This Civil Case Management Plan is submitted by the parties in accordance with Fed. R. Civ. P. 26(f)(3).

- 1

are conducted under the auspices of a private mediator but that it is premature to set a schedule for a formal mediation process at this time.

The parties agree that the use of any alternative dispute resolution mechanism does not stay or modify any date in this Order unless otherwise agreed by the Parties.

5. Joinder of Additional Parties.

Plaintiffs' Position:

No additional parties may be joined after the close of fact discovery without leave of Court.

*Defendants' Position:*¹

No additional parties may be joined without leave of Court.

6. Amended Pleadings.

Plaintiffs' Position:

Amended pleadings may be filed without leave of Court until the close of fact discovery.

Defendants' Position:

No further amended pleadings may be filed without leave of Court.

7. Initial Disclosures. See paragraph 8(b) below.

8. Fact Discovery.

Plaintiffs' Position:

a. Discovery in this matter presents unique complexities, including the production of voluminous transaction data, the number of parties, and the need to conduct

¹ Defendants JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (collectively "JPMorgan") have entered a settlement agreement with plaintiffs and the class, which (if approved by the Court) would stay all proceedings against JPMorgan, except as may be necessary to implement the settlement or comply with its terms. Accordingly, JPMorgan takes no position on the issues in dispute in the competing case management proposals submitted by the plaintiffs and the non-settling defendants.

certain discovery overseas. Accordingly, subject to: (1) resolution of any request by the U.S. Department of Justice that discovery in this action be stayed, or (2) resolution with one or more Defendants pursuant to settlement agreements, fact discovery shall be completed in a period not to exceed twenty-four (24) months. Document and data discovery shall occur in three phases, as follows:

- i. Phase I – Initial Production of Unstructured Data. The first phase shall constitute the production of documents pursuant to Fed. R. Civ. P. 34, to the extent the documents responsive to these requests are drawn from materials already provided to U.S. government or other regulatory authorities in connection with those authorities' investigations of foreign exchange trading. The Defendants shall produce these documents within sixty (60) days of the service of Plaintiffs' initial requests for production pursuant to Fed. R. Civ. P. 34; these initial requests for production shall be served no later than thirty (30) days from the date of this Order.
- ii. Phase II – Structured Data and Additional Unstructured Data – The second phase of fact discovery shall begin no earlier than ninety (90) days after the start of discovery. Phase II document discovery shall consist of (a) the production of structured data for the period 2003 to the present, (b) production of documents and data from non-parties, and (c) production of unstructured data by Defendants that have not produced any unstructured data to U.S. government or other regulatory authorities in connection with those authorities' investigations of foreign exchange trading. Phase II production shall be completed by no later than six (6) months after the

service of Plaintiffs' Phase II requests for production, with productions made on a rolling basis.

iii. Phase III – Clean-up – Beginning no earlier than one (1) year after the date of this Order, the final phase of fact discovery shall consist of remaining documents and data not produced in Phases I and II above that is reasonably necessary to proving claims or defenses. This third phase will be completed within twenty-four (24) months of the date of this Order.

b. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i), (ii), and (iv) shall be completed no later than forty-five (45) days from the date of this Order.

c. Within thirty (30) days, the parties shall confer and exchange information pertaining to preservation, search and review, and production, as set forth in Exhibit B to this District's Pilot Project Regarding Case Management Techniques for Complex Civil Cases. Specifically, the parties will confer and exchange: information concerning a data preservation plan, including identification of potentially relevant data, disclosure of the programs and manner in which data is maintained, identification of computer systems utilized, and identification of the individual(s) responsible for data preservation (*see* Exhibit B, Section 5); search and review, including production protocols for the search and review of electronically stored information, as well as techniques to be used (*see* Exhibit B Section 6); and sources of electronically stored information and limitations on production (*see* Exhibit B, Section 7).

d. Interrogatories pursuant to Fed. R. Civ. P. 33 (other than contention interrogatories), shall be served no earlier than four (4) months after the commencement of fact discovery and no later than four (4) months prior to the close of fact discovery.

e. Depositions pursuant to Fed. R. Civ. P. 30 and/or 31 shall be completed no later than the close of fact discovery.

f. Requests to admit pursuant to Fed. R. Civ. P. 36 shall be served no earlier than two (2) weeks prior to the close of fact discovery.

g. Except as specifically provided in Paragraph 8(a)(i) & (ii), the deadline for substantial completion of document production shall be six (6) months after service of the parties' requests for production; however, documents shall be produced on a rolling basis wherever practicable. The parties shall produce privilege logs within sixty (60) days following the deadline for substantial completion of a document production.

h. Any of the deadlines in paragraph 8(b)-(g) may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 8(a).

i. The parties shall coordinate the preparation and service of joint discovery requests on an adverse party to the extent practicable to avoid unnecessary duplication.

Defendants' Position:

a. Subject to resolution of any request by the U.S. Department of Justice that discovery in this action be stayed, fact discovery shall proceed in two phases in order to ensure that class certification issues are resolved at "an early practicable time." Fed. R. Civ. P. 23(c)(1)(A). The first phase ("Phase 1") shall commence on the date of this Order, shall be completed in a period not to exceed twelve (12) months and shall be subject to certain limitations, as set forth herein. During Phase 1, requests for the production of documents pursuant to Fed. R. Civ. P. 34, to the extent the requests are directed to a defendant, shall be limited to (1) documents drawn from materials already

provided to U.S. government or regulatory authorities in connection with those authorities' investigations of foreign exchange trading), and (2) transactional data from the past six years. After the completion of Phase 1, plaintiffs will submit a motion for class certification, pursuant to the schedule set out in Paragraph 8B below. After a decision is entered on plaintiffs' motion for class certification, the parties will meet and confer and will submit to the Court a proposed schedule for any remaining discovery ("Phase 2") to be completed in advance of trial.

b. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i), (ii), (iii) and (iv) shall be completed no later than sixty (60) days from the date of this Order, unless otherwise agreed by the parties.

c. Initial requests for the production of documents pursuant to Fed. R. Civ. P. 34 shall be served no later than thirty (30) days from the date of this Order, unless otherwise agreed by the parties.

d. During Phase 1, interrogatories pursuant to Fed. R. Civ. P. 33 shall be served no earlier than two (2) months after the commencement of Phase 1 and no later than two (2) months prior to the close of Phase 1, unless otherwise agreed by the parties.

e. During Phase 1, depositions pursuant to Fed. R. Civ. P. 30 and/or 31 shall be completed no later than the close of Phase 1, unless the parties agree otherwise.

f. Requests to admit pursuant to Fed. R. Civ. P. 36 shall not be served during Phase 1, unless the parties agree otherwise.

g. The deadline for substantial completion of initial document production shall be six (6) months after service of the parties' initial requests for production; however, documents shall be produced on a rolling basis wherever practicable.

Following the deadline for substantial completion of initial document production, the parties shall meet and confer to agree upon a schedule for the production of privilege logs.

h. Any of the deadlines in paragraph 8(b)-(g) may be extended by the written consent of all parties without application to the Court, provided that all Phase 1 discovery is completed in accordance with the schedule forth in paragraph 8(a).

i. The parties shall coordinate the preparation and service of joint discovery requests on an adverse party to the extent practicable to avoid unnecessary duplication.

8A. Changes to Limitations on Discovery.

Plaintiffs' Position:

a. This case shall be exempted from Judge Schofield's Rule II.A.1, which imposes specified limits on electronic discovery.

b. This case shall be exempted from Fed. R. Civ. P. 30(a)(2)(A), limiting the number of depositions, without leave of Court, to ten (10) depositions. Within 30 days after the later of a) service of initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(A), or b) a Rule 16(f) conference regarding the custodians who authored, received, or manage relevant documents or structured data, the parties shall meet and confer concerning the appropriate number of party and non-party fact depositions. To the extent the parties cannot reach an agreement within (30) days, the parties shall submit to the Court a joint letter setting forth the basis for the parties' disagreement(s).

c. The limit of twenty-five (25) interrogatories that may be served by or on any "party" under Fed. R. Civ. P. 33(a) shall be deemed to apply to the aggregate number

of interrogatories that (i) all defendants, collectively, may serve on any one plaintiff; and that (ii) all plaintiffs, collectively, may serve on any one defendant.

d. There shall be no contention interrogatories. Accordingly, this case shall not be governed by Local Civil Rule 33.3(c).

Defendants' Position:

a. Rule II.A.1 of the Court's Individual Rules and Procedures for Civil Cases, which imposes specified limits on electronic discovery, shall apply to discovery during Phase 1. Following the close of Phase 1 discovery and the Court's ruling on class certification, the parties shall meet and confer regarding the application of the Court's Individual Rules and Procedures for Civil Cases to discovery during Phase 2, if any.

b. This case shall be exempted from Fed. R. Civ. P. 30(a)(2)(A), limiting the number of depositions, without leave of Court, to ten (10) depositions.

i. Other than for good cause shown, during Phase 1, Plaintiffs, collectively, will be limited to depositions of two (2) fact witnesses from each Defendant and five (5) non-party fact witnesses. Defendants, collectively, will be limited to depositions of two (2) fact witnesses from each Plaintiff, including any named Plaintiffs, and five (5) non-party fact witnesses. Any party may petition the Court for permission to take additional depositions, for good cause shown.

ii. Following the close of Phase 1 and the Court's ruling on class certification, the parties shall meet and confer concerning the number of additional depositions, if any, of fact witnesses to be conducted during Phase 2.

c. During Phase 1, the limit of twenty-five (25) interrogatories that may be served by or on any "party" under Fed. R. Civ. P. 33(a) shall be deemed to apply to the

aggregate number of interrogatories that (i) all defendants, collectively, may serve on any one plaintiff; and that (ii) all plaintiffs, collectively, may serve on any one defendant.

8B. Schedule.

Plaintiffs' Position:

The following schedule shall apply for class certification and expert discovery.

Motion for class certification and supporting affidavits or reports filed (expert depositions to occur within 45 days of filing of supporting affidavits or reports)	60 days after close of fact discovery
Class certification opposition and any supporting affidavits or reports filed (expert depositions to occur within 45 days of filing of supporting affidavits or reports)	60 days after motion filed
Class certification reply and any supporting reply affidavits or reports filed (expert depositions to occur within 45 days of filing of supporting affidavits or reports)	60 days after opposition filed
Plaintiffs' opening merits expert reports served	60 days after class certification briefing completed
Defendants' merits expert reports served	60 days after plaintiffs' opening reports
Plaintiffs' reply merits expert reports served	60 days after defendants' reports
Deadline for completion of expert depositions on merits reports	30 days after plaintiffs' reply reports

Defendants' Position:

The following schedule shall apply for class certification and related expert discovery.

Following the close of Phase 1 and the Court's ruling on class certification, the parties shall meet and confer regarding and submit a proposed order concerning the schedule for and scope of additional fact or expert discovery, if any, to be conducted during Phase 2.

Motion for class certification and supporting affidavits or reports filed (expert depositions to occur within 45 days of filing of supporting affidavits or reports)	60 days after close of Phase 1 discovery
Class certification opposition and any supporting affidavits or reports filed (expert depositions to occur within 45 days of filing of supporting affidavits or reports)	90 days after motion filed

Class certification reply and any supporting reply affidavits or reports filed (expert depositions to occur within 45 days of filing of supporting affidavits or reports)	60 days after opposition filed
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8C. E-discovery Protocol. The parties shall agree on a written e-discovery protocol within ninety (90) days of the date of this Order. To the extent the parties cannot agree on specific terms of the protocol, within ninety (90) days of the date of this Order, the parties shall jointly submit a document that clearly identifies each side's respective position together with a joint letter setting forth the basis for the parties' disagreement(s).

8D. Protective Order and Non-Waiver Agreement. The parties shall submit proposed forms of protective and non-waiver/clawback agreements (and any proposed forms of order) within thirty (30) days of the date of this Order. To the extent the parties cannot agree on specific terms of the protective and non-waiver/clawback agreements (and any proposed forms of order), within thirty (30) days of the date of this Order, the parties shall jointly submit a document that clearly identifies each side's respective position together with a joint letter setting forth the basis for the parties' disagreement(s).

9. Expert Discovery.

Plaintiffs' Position:

a. Expert discovery shall be completed in accordance with the schedule set forth in paragraph 8B above.

b. By no later than one month before the deadline for the completion of fact discovery, the parties shall meet and confer on matters pertaining to expert discovery, including the production of materials relied on by experts and scheduling of expert depositions.

Defendants' Position:

a. Expert discovery with respect to class certification shall be completed in accordance with the schedule set forth in paragraph 8B above.

b. By no later than one month before the deadline for the completion of Phase 1, the parties shall meet and confer on matters pertaining to expert discovery, including the production of materials relied on by experts and scheduling of expert depositions.

10. Trial by Jury. Plaintiffs have demanded a jury trial. Defendants reserve all their rights on this issue.

11. Estimated Length of Trial. Due to the complexity and number of issues requiring resolution in this action, the parties believe it is premature at this time to estimate the length of trial.

12. Other Issues. Other issues to be addressed at the Initial Pretrial Conference, including those set forth in Fed. R. Civ. P. 26(f)(3), are set forth herein.

13. Status Letters and Conferences.

Plaintiffs' Position:

a. The Court will schedule bimonthly status conferences during the fact discovery period. Seven (7) days prior the conference, the parties shall submit a joint status letter explaining what discovery has taken place, what discovery remains, any disputes, how the parties are acting diligently to meet the discovery deadline, and other scheduling or discovery issues. If a status conference is not needed, the parties shall so advise the Court in their joint letter.

b. By ninety (90) days after the date established for the substantial completion of document productions, all counsel must confer to discuss settlement jointly

and jointly advise the Court in writing whether or not they request a referral for settlement discussions as provided in paragraph 4 above.

c. On _____, 2015 at __:__ __, the Court shall hold a case management conference, which shall serve either as a pre-motion conference for any party intending to file a summary judgment motion, or a scheduling conference for trial.

i. A party wishing to file a summary judgment motion shall file a pre-motion letter, and any party wishing to oppose also shall file a letter at the times and in the form provided in the Court's Individual Rule III.A.1. The Court will set the briefing schedule at the conference. The Court will set a firm trial date after a decision on any summary judgment motion.

ii. If no pre-motion letters are timely filed, at the Case Management Conference, the Court will set dates for a final pre-trial order, other trial submissions, a final pre-trial conference and trial. The trial date will be firm.

Defendants' Position:

a. Status conferences shall be scheduled at the Court's discretion. Seven (7) days prior to any status conference, the parties shall submit a joint status letter explaining what discovery has taken place, what discovery remains, any disputes, how the parties are acting diligently to meet the discovery deadline, and other scheduling or discovery issues. If a status conference is not needed, the parties shall so advise the Court in their joint letter.

b. After a decision is entered on plaintiffs' motion for class certification, the parties will meet and confer and will submit to the Court a proposed schedule for the remainder of the case, which shall include a proposed date by which all counsel must

meet and confer to discuss settlement and jointly advise the Court in writing whether or not they request a referral for settlement discussions as provided in Paragraph 4 above.

c. After a decision is entered on plaintiffs' motion for class certification, the parties will meet and confer and will submit to the Court a proposed schedule for the remainder of the case, which shall include a proposed date by which a case management conference shall be held. The conference will serve either as a pre-motion conference for any party seeking to file a summary judgment motion, or a scheduling conference for trial.

i. A party wishing to file a summary judgment motion shall file a pre-motion letter, and any party wishing to oppose also shall file a letter at the times and in the form provided in the Court's Individual Rule III.A.1. The Court will set the briefing schedule at the conference. The Court will set a firm trial date after a decision on any summary judgment motion.

ii. If no pre-motion letters are timely filed, at the Case Management Conference, the Court will set dates for a final pre-trial order, other pretrial submissions, a final pre-trial conference and trial. The trial date will be firm.

Except as provided in paragraph 8(h) above, this Order may not be modified or the dates herein extended, except by further Order of this Court. Any application to modify or extend the dates herein (except as provided in paragraph 8(h) above), shall be made in a written application in accordance with the Court's Individual Rules and shall be made no less than two (2) business days prior to the expiration of the date sought to be extended.

The Clerk of the Court is directed to enter the dates under paragraphs 8, 8B, 8C, 8D, 9, and 13 into the Court's calendar.

SO ORDERED:

Dated: _____
New York, New York

Hon. Lorna G. Schofield
United States District Judge

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